

COMMISSIONERS APPROVAL

GRANDSTAFF *cg*

ROKOSCH

CHILCOTT *gc*

DRISCOLL *kd*

IMAN *JE*

PLETTENBERG (Clerk & Recorder)

Date.....January 15, 2009

Members Present..... Commissioner Carlotta Grandstaff, Commissioner Jim Rokosch, Commissioner Kathleen Driscoll and Commissioner J.R. Iman

Minutes: Beth Perkins

► Commissioner Chilcott attended a Loss Control Conference in Helena for the day.

► The Board met for a public hearing for Country Life Estates II Major Subdivision. Present were Civil Counsel Dan Browder, Planner Tristan Riddell, Representative Leonard Shepherd, John Horat, Owners Doug and Lori Schallenberger and several citizens.

Commissioner Grandstaff opened the public hearing and requested any conflicts of interest or ex parte communication. She stated she did speak with neighbor Jerry Robbins but not to any extent. She then requested the Planning Staff Report be read.

Tristan presented the Staff Report as follows:

**COUNTRY LIFE ESTATES 2 (SCHALLENBERGER)
EIGHT-LOT MAJOR SUBDIVISION**

DRAFT STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Tristan Riddell

**REVIEWED/
APPROVED BY:** John Lavey

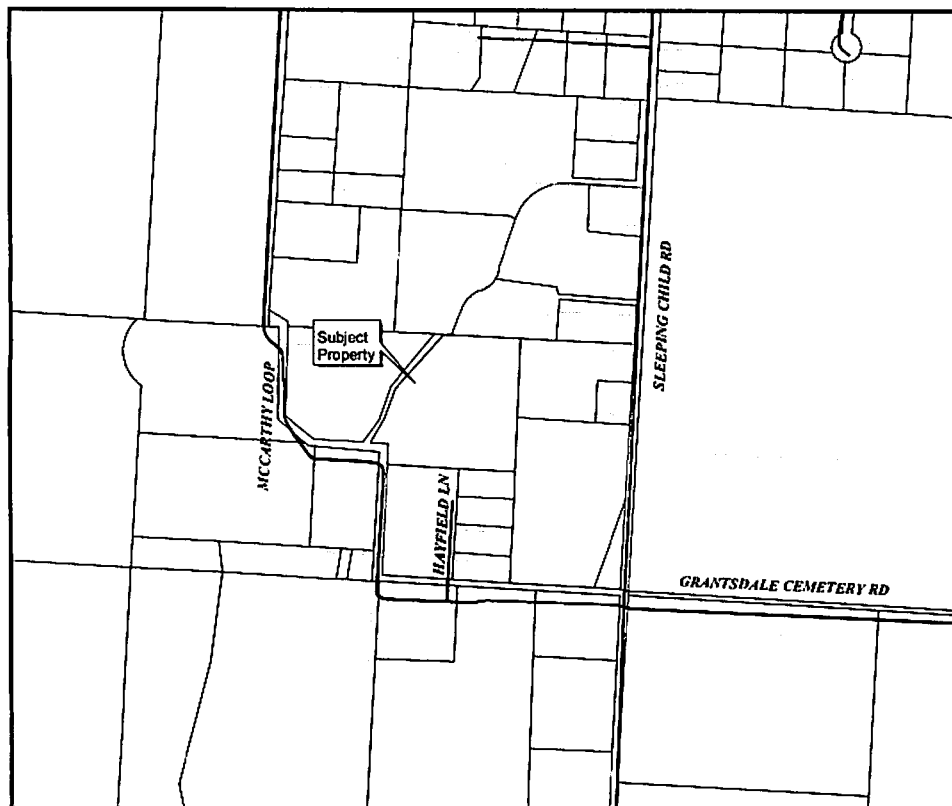
PUBLIC HEARINGS/ Planning Board Public Meeting: 7:00 p.m.
December 3, 2008

MEETINGS: BCC Public Hearing: 9:00 a.m.
January 15, 2008
Deadline for BCC action (60 working days):
January 30, 2009

APPLICANT/ OWNER: Doug and Lori Schallenberger
20 Lost Lamb Lane
Hamilton, MT 59840

REPRESENTATIVE: Shepherd Surveying
320 Adirondac
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located south of Hamilton off
McCarthy Loop. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION

OF PROPERTY: Lot 5, Country Life Estates and Tract 2-B, Certificate of Survey 4283 Sections 13, T5N, R21W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was deemed complete on October 30, 2008. Agencies were notified of the subdivision on May 28, 2008 and November 20, 2008. Comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-12 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION: A legal advertisement was published in the Ravalli Republic on Thursday, November 27, 2008. Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated November 20, 2008. Public comments are included as Exhibits B-1 and B-2.

DEVELOPMENT PATTERN:

Subject property	Residential
North	Agricultural
South	Agricultural
East	Residential and Agricultural
West	Agricultural

INTRODUCTION

The Country Life Estates 2 Major Subdivision is an eight-lot split proposed on 16.33 acres. There are currently two residential structures located on the property. The applicant is proposing individual wells and wastewater treatment facilities to serve all lots.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS JANUARY 15, 2008

COUNTRY LIFE ESTATES 2 EIGHT-LOT MAJOR SUBDIVISION

RECOMMENDED MOTION

That the Country Life Estates 2 Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report. *(Staff Note: Prior to making a decision on the subdivision, the BCC must determine the appropriate parkland dedication.)*

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water users have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the McCarthy Loop frontage of this subdivision, excepting the approved approach to Hayfield Lane. All lots within this subdivision must use the approved approach. Locations of the no-ingress/egress restrictions can be found on the final plat. This limitation of access may be lifted or amended only with the approval of the Board of Ravalli County Commissioners. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety*)

Notification of Road Maintenance Agreement. The internal subdivision road, Hayfield Lane, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for these roads was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as elk, mule deer, white-tailed deer, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>. (*Section 3-2-8(b)(v), Effects on Agriculture, Effects on Natural Environment, & Wildlife and Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas, as well as a brochure for fence building with wildlife in mind.)
- c. All **garbage** should be stored in bear-resistant containers or indoors. If stored indoors, garbage may not be taken outdoors until the morning of garbage pick-up and containers must be brought

back in that evening. Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash storage sites. (If home sites are occupied seasonally, all garbage from the home and other buildings must be removed from the property before closing up for the season.)

- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders must: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).
- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in bear-resistant containers in order to avoid attracting wildlife such bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- i. **Barbecue grills** should be stored indoors. Permanent outdoor barbecues grills are not allowed in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the

potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)

- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Barbed wire fences are not allowed in this subdivision, and this should avoid animals such as deer and/or elk becoming entangled in the wire or injuring themselves when trying to jump the fence.
- k. **Compost piles** can attract skunks and bears. If used they should be kept in wildlife-resistant containers or structures. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area. If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.
- m. Residents of this subdivision must recognize that the subdivision is located within one-half of mile from the Bitterroot River and its associated sloughs and wetlands, where lawful waterfowl hunting and the associated **discharge of shotguns** could occur from a half-hour before sunrise through sunset, and the season can run from September into January.
- n. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building

design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health & Safety)*

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agriculture and Natural Environment)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more

information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The applicants shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)
4. The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the applicants shall provide a letter from the Hamilton Rural Fire District stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for all lots. Alternatively, the applicants may provide evidence that a \$500 per newly created lot contribution has been submitted to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

7. The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
8. The final plat shall show a no-ingress/egress zone along the subdivisions frontage with McCarthy Loop, except for the approved encroachment for the internal subdivision road, Hayfield Lane. (*Section 3-2-8(b)(v), Effects on Local Services and Public Health & Safety*)
9. A stop sign shall be installed at the intersection of McCarthy Loop and Hayfield Lane prior to final plat approval. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety*)
10. The internal subdivision road shall be labeled as a "public road, utility, and irrigation easement" on the final plat. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Agricultural Water User Facilities*)
11. The applicant shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Hamilton Post Office's standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval. Alternatively, should the Hamilton Post Office allow for individual mailboxes, evidence shall be provided indicating that a CBU is not required. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
12. The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Hamilton School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services*)
13. The applicant shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of McCarthy Loop and Hayfield Lane. The applicant shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicant shall complete the improvements prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
14. The applicant shall enroll in the Ravalli County dust abatement program for the portion of McCarthy Loop heading east from Hayfield Lane to Sleeping Child Road. The applicant shall submit evidence from the Ravalli County Road and Bridge Department indicating that enrollment has occurred. (*Section 3-2-8(b)(v), RCSR, Effects on Local Service and Public Health & Safety*)

15. The applicant shall submit a letter from Daly Ditches Irrigation District indicating the preferred location of a safety fence to be constructed along the entire length of the Republican Ditch where it traverses the subject property. *(Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities and Public Health & Safety)*
16. Hayfield Lane shall be constructed with a paved travel surface of 20 feet and a minimum of 1-foot shoulders, for a total width of 22 feet. *(Section 3-2-8(b)(v), RCSR, Effects on Local Service and Public Health & Safety)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal
 - e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of park cash-in-lieu payment
 - h. Other certifications as appropriate
 - i. North arrow
 - j. Graphic scale
 - k. Legal description
 - l. Property boundaries (bearings, lengths, curve data)
 - m. Pertinent section corners and subdivision corners
 - n. Names of adjoining subdivisions/certificates of survey
 - o. Monuments found
 - p. Witness monuments
 - q. Acreage of subject parcel
 - r. Curve data (radius, arc length, notation of non-tangent curves)
 - s. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - t. Lots and blocks designated by number (dimensions/acreage)

- u. Easements/rights of ways (location, width, purpose, ownership)
 - v. No-build/alteration zones
 - w. No-ingress/egress zones
 - x. Water resources (rivers, ponds, etc.)
 - y. Irrigation canals including diversion point(s), etc.
 - z. Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
 8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
 9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
 10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
 11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
 12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.
 13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
 14. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
 15. Engineering plans and specifications for all central sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.
 16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
 17. Road certification(s) shall be submitted with the final plat submittal.
 18. Utility availability certification(s) shall be submitted with the final plat submittal.
 19. Road maintenance agreement, signed and notarized, shall be submitted with the final plat submittal.
 20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be

divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.

21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. The applicant shall pay the pro rata share of the cost to improve the portions of McCarthy Loop and Sleeping Child Road leading to the subdivision from Skalkaho Highway prior to final plat approval. (Section 5-4-5(d), RCSR)
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
 - a. Specific infrastructure improvements potentially required for this subdivision are the installation of a stop sign, installation of the CBU and concrete slab, construction of the internal subdivision road, installation of irrigation facilities, installation of safety fencing along the Republican Ditch, and construction of a bus shelter and turnout.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located along McCarthy Loop and Hayfield Lane. (Country Life Estates 2 Preliminary Plat)

2. A proposed 60-foot wide public road and utility easement extending along Hayfield Lane will provide additional utility easement. (Country Life Estates 2 Preliminary Plat)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*
4. *Hayfield Lane shall be labeled as a "public road, utility, and irrigation easement" on the final plat. (Condition 10)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

- B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

Findings of Fact

1. The subject property gains legal and physical access from U.S. Highway 93, Skalkaho Highway, Sleeping Child Road, McCarthy Loop, and Hayfield Lane. (Country Life Estates 2 Subdivision File)
2. U.S. Highway 93 is a state operated roadway. (MDT)
3. Skalkaho Highway is a state operated roadway. (MDT)
4. Sleeping Child Road is listed as a county-maintained road. (RCSR)
5. McCarthy Loop is listed as a county-maintained road. (RCSR)
6. The internal road, Hayfield Lane will provide legal and physical access to all lots within the subdivision via a 60-foot wide public road and utility easement. (Country Life Estates 2 Preliminary Plat)
7. A Road Maintenance Agreement outlines what parties are responsible for maintaining Hayfield Lane and under what conditions. (Country Life Estates 2 Subdivision File)
8. *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with McCarthy Loop. (Condition 8)*
9. *Hayfield Lane shall be labeled as a "public road, utility, and irrigation easement" on the final plat. (Condition 10)*

Conclusion of Law

Legal and physical access will be provided to all lots within the subdivision.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant prior to final plat approval (Final Plat Requirements 1 and 26).

- Specific infrastructure improvements potentially required for this subdivision are the installation of a stop sign, installation of the CBU and concrete slab, construction of the internal subdivision road, installation of irrigation facilities, installation of safety fencing along the Republican Ditch, and construction of a bus shelter and turnout.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the applicant is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. The average lot size for this proposal is approximately 2.04 acres. (Country Life Estates 2 Subdivision File)
3. The property is located within and has water shares provided by Daly Ditches Irrigation District. (Country Life Estates 2 Subdivision Application)
4. The applicant is proposing to reallocate the water shares equally between the newly created lots. (Country Life Estates 2 Subdivision File)
5. In a letter dated November 6, 2006, Paul Barteni, Manager of Daly Ditches Irrigation District stated that he has read and approved the irrigation plan submitted on behalf of the Country Life Estates 2 subdivision proposal. (Exhibit A-1)
6. The applicant has submitted a preliminary master irrigation plan and irrigation agreement that meets the requirements of the Ravalli County Subdivision Regulations. (Country Life Estates 2 Subdivision Application)
7. *Section 3-4-4(a)(xx) requires that a master irrigation plan that meets the provisions in Section 3-1-5(a)(xxxv) and conforms to the irrigation plan presented in the preliminary plat application is submitted prior to final plat*

approval. Section 3-4-4(a)(xxvi) requires that all improvements are completed prior to final plat approval. (Requirements 20 and 26)

Conclusion of Law

With the requirements of final plat approval and the mitigating conditions of approval, this prerequisite has been met.

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the applicant is required to establish ditch easements in the subdivision that:
 - (i) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (ii) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (iii) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. There is an existing 10-foot wide buried irrigation pipeline easement that traverses proposed Lots 3 and 4. The irrigation pipeline then continues along the existing and proposed 60-foot wide public road and utility easement for Hayfield Lane. (Country Life Estates 2 Preliminary Plat)
3. The Republican Ditch traverses the northwestern portion of the property in a northeast to southwest direction. There is an existing 75-foot wide easement associated with the ditch. (Country Life Estates 2 Preliminary Plat)
4. The placement of structures or the planting of vegetation other than grass within irrigation easements is prohibited. (76-3-504(1)(k) MCA).
5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and conditions shall be met prior to final plat approval:*
 - *The existing irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*

- *The internal subdivision road shall be labeled as a "public road, utility, and irrigation easement" on the final plat. (Condition 10)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Findings of Fact

1. The application states that 0.82 acres are required to meet the parkland dedication requirement. (Country Life Estates 2 Subdivision File)
2. RCSR Section 6-1-5(a) requires a applicant to make a land donation to the County, make a cash donation to the County, reserve land within the development for the recreational uses for those within the development, and/or reserve land for one or more of the following purposes:
 - a. Protection of critical wildlife habitat;
 - b. Protection of cultural, historical, or natural resources;
 - c. Protection of agricultural lands; or
 - d. Protection of aesthetic values, including open space and scenic vistas
3. Pursuant to RCSR Section 6-1-5(a)(4)(b), the applicant is proposing to meet the parkland dedication requirement by making a cash donation to the County. (Country Life Estates 2 Subdivision File)
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the applicant and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the applicant, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
5. In a letter dated June 25, 2008 (Exhibit A-2), Park Board representative Bob Cron stated that a cash-in-lieu donation of parkland dedication was the preferred mitigation. In an updated letter received November 25, 2008 (Exhibit A-3), the Park Board further recommended that the applicant install a minimum 5-foot wide asphalt trail along one side of the internal roadway from the cul-de-sac to the potential bus stop located at the intersection of Hayfield Lane and McCarthy Loop.
6. *If the BCC determines that cash-in-lieu is appropriate, the applicant will be required to hire an appraiser as outlined in Section 6-1-7. The BCC will determine whether or not the amount is acceptable (Final Plat Requirement 12)*

7. *The applicant shall construct a minimum 5-foot wide asphalt trail along one side of Hayfield Lane from the cul-de-sac to the intersection with McCarthy Loop. (Condition 16)*

Conclusion of Law

The applicant has proposed parkland dedication that meets State Law requirements.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Country Life Estates 2 Preliminary Plat)
2. This development plan proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Country Life Estates 2 Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Clerk & Recorder's Office)
2. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Country Life Estates 2 Subdivision File)

Conclusion of Law

There are no zoning regulations that apply to the property.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are existing covenants on the property recorded as Document #473047 with the Ravalli County Clerk & Recorder. (Country Life Estates 2 Subdivision Application)

Conclusion of Law

The proposal appears to comply with existing covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on August 21, 2006. (Country Life Estates 2 Subdivision File)
3. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 16.33 acres will result in eight lots that range in size from 2.00 acres to 2.30 acres. The property is located approximately 3 miles south of the City of Hamilton off McCarthy Loop. (Country Life Estates 2 Subdivision File)
2. The subject parcel is classified for tax purposes as residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. The property is adjacent to agricultural properties. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)

4. The NRCS Web Soil Survey indicates that there are no prime farmlands or farmlands of statewide importance found on the property. (NRCS)
5. In a letter dated August 27, 2008, State Conservationist Dave White of the Natural Resource Conservation Service confirmed that the NRCS soils staff would no longer utilize the farmland of local importance soils classification, per the request of the Bitterroot Conservation District. (Exhibit A-4)
6. During a phone conversation on September 24, 2008, Julie Ralston of the Bitterroot Conservation District summarized the reasoning for eliminating the farmland of local importance soils classification. (Exhibit A-5)
7. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted small amounts of common tansy, houndstongue, and Canada thistle were found on the property along the banks of the republican ditch. (Country Life Estates Subdivision File)
8. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
9. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The average lot size for this proposal is approximately 2.04 acres. (Country Life Estates 2 Subdivision File)
2. The property is located within and has water shares provided by Daly Ditches Irrigation District. (Country Life Estates 2 Subdivision Application)
3. The applicant is proposing to reallocate the water shares equally between the newly created lots. (Country Life Estates 2 Subdivision File)
4. In a letter dated November 6, 2006, Paul Barteni, Manager of Daly Ditches Irrigation District stated that he has read and approved the irrigation plan

submitted on behalf of the Country Life Estates 2 subdivision proposal.
(Exhibit A-1)

5. The applicant has submitted a preliminary master irrigation plan and irrigation agreement that meets the requirements of the Ravalli County Subdivision Regulations. (Country Life Estates 2 Subdivision Application)
6. There is an existing 10-foot wide buried irrigation pipeline easement that traverses proposed Lots 3 and 4. The irrigation pipeline then continues along the existing and proposed 60-foot wide public road and utility easement for Hayfield Lane. There is also an existing 10-foot wide irrigation easement that traverses a portion of proposed Lot 1. (Country Life Estates 2 Preliminary Plat)
7. The Republican Ditch traverses the northwestern portion of the property in a northeast to southwest direction. There is an existing 75-foot wide easement associated with the ditch. (Country Life Estates 2 Preliminary Plat)
8. The placement of structures or the planting of vegetation other than grass within irrigation easements is prohibited. (76-3-504(1)(k) MCA).
9. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *All irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal. (Final Plat Requirement 20)*
 - *Installation of all irrigation facilities as proposed within the master irrigation plan. (Final Plat Requirement 26)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
 - *The internal subdivision road shall be labeled as a "public road, utility, and irrigation easement" on the final plat. (Condition 10)*
 - *The applicant shall install safety fencing along the entire length of the Republican Ditch in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations. (Final Plat Requirement 26)*
 - *The applicant shall submit a letter from Daly Ditches Irrigation District indicating the preferred location of a safety fence to be constructed along the entire length of the Republican Ditch where it traverses the subject property. (Condition 15)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Hamilton Rural Fire District. (Country Life Estates 2 Subdivision File)
2. Notification letters were sent to the Hamilton Rural Fire District requesting comments on May 28, 2008 and November 20, 2008. (Country Life Estates 2 Subdivision File)
3. In a letter dated June 4, 2008, Lisa Wade, Secretary for the Hamilton Rural Fire District, stated that the Hamilton Rural Fire District and the City of Hamilton Fire chief had reviewed the subdivision proposal and recommended that the following mitigating measures are met: (Exhibit A-6)
 - a) All buildings should be built to IRBC code
 - b) All roads leading to and within the subdivision should be paved and constructed to County standards without any variances since access to the subdivision is a concern.
4. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which address access, posting of addresses, and water supply requirements. (Exhibit A-7)
5. In a letter dated September 25, 2008, Ravalli County Fire Warden Ronald J. Ehli, on behalf of the Ravalli County Fire Council requested that all interior roadways for new development be constructed with a travel surface of 20 feet with a minimum of 1-foot shoulders, for a total width of 22 feet. (Exhibit A-8)
6. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants shall require that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *A provision in the covenants shall recommend that houses within the subdivision be built to IRBC standards. (Condition 2)*
 - *The applicants shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*
 - *Prior to final plat approval, the applicants shall provide a letter from the Hamilton Rural Fire District stating that the applicants have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the applicants may provide evidence that a \$500-per-new-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
 - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*

- *Hayfield Lane shall be constructed with a paved travel surface of 20 feet and a minimum of 1-foot shoulders, for a total width of 22 feet. (Condition 16)*

School District

7. The proposed subdivision is located within the Hamilton School District. (Country Life Estates 2 Subdivision File)
8. It is estimated that 3.5 to 4.0 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000)
9. Notification letters were sent to the Hamilton School District requesting comments on May 28, 2008 and November 20, 2008. (Country Life Estates 2 Subdivision File)
10. The Hamilton School District has not submitted any comments specific to this proposal to date. However, In a letter received November 14, 2008, Mr. Phillip Santee, Superintendent for the Hamilton School District stated the following in regards to the Nighthawk Meadows Major Subdivision, which is a six-lot subdivision also located within the Hamilton School District: (Exhibit A-9)
 - 1) The District will not provide transportation services to any student who does not live on county maintained roads and/or do not have an adequate bus turn around area.
 - 2) The District would like the developer to insure that the children are provided with a safe area that is out of the weather to wait for the bus at the intersection of Nighthawk Lane and Tail Feather Lane.
 - 3) The District has not conducted an impact fee study, but they would like the County to assess a mitigation fee that they feel is appropriate for this project.
11. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the tax levy per pupil excluding capital costs would be \$2,329 for the Hamilton School District (Exhibit A-10)
12. The County School Superintendent, Ernie Jean, sent a letter to the Ravalli County Commissioners stating that the Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and turnout, or turnaround, if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-11)
13. *To mitigate impacts on the School District:*
 - *The subdivider shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on the Hamilton School District. The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 12)*
 - *The applicant shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of Hayfield Lane and McCarthy Loop. The applicant shall provide evidence that they have worked with the School District prior to final plat approval. If any*

improvements are required, the applicant shall complete the improvements prior to final plat approval. (Condition 13)

Public Safety

14. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Country Life Estates 2 Subdivision File)
15. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on May 28, 2008 and November 20, 2008, but no comments have been received to date. (Country Life Estates 2 Subdivision File)
16. This proposed subdivision is located approximately 5.0 miles from the Sheriff's dispatch in Hamilton. (Ravalli County GIS Data)
17. The average number of people per household in Ravalli County is 2.5. This subdivision is estimated to add 20 people to the County. (Census 2000)
18. Taxes from new residents may not be immediately available to law enforcement services, E-911, or the Office of Emergency Services (OES). There is no available information on the average amount of time between when public safety services begin to serve a new residence and when public safety services receive tax money from that residence. (Staff Determination)
19. *The applicant shall negotiate adequate mitigation with the BCC to alleviate impacts of the subdivision on Public Safety Services (Sheriff, E-911, DES). The applicant shall ensure that the decided upon mitigation has been implemented prior to final plat approval. (Condition 7)*

Roads

20. There are eight proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 64 vehicular trips per day, assuming eight trips per day per lot. (Country Life Estates 2 Subdivision File)
21. The subject property gains legal and physical access from U.S. Highway 93, Skalkaho Highway, Sleeping Child Road, McCarthy Loop, and Hayfield Lane. (Country Life Estates 2 Subdivision File)
22. U.S. Highway 93 is a state operated roadway. (MDT)
23. Skalkaho Highway is a state operated roadway. (MDT)
24. Sleeping Child Road is listed as a county-maintained road. (RCSR)
25. McCarthy Loop is listed as a county-maintained road. (RCSR)
26. The internal road, Hayfield Lane will provide legal and physical access to all lots within the subdivision via a 60-foot wide public road and utility easement. (Country Life Estates 2 Preliminary Plat)
27. A proposed Road Maintenance Agreement outlines what parties are responsible for maintaining Hayfield Lane and under what conditions. (Country Life Estates 2 Subdivision File)
28. There is an existing road name sign located at the intersection of McCarthy Loop and Hayfield Lane. A stop sign is required to be installed at said intersection. (Country Life Estates 2 Subdivision File)
29. The road plans received preliminary approval from the Ravalli County Road and Bridge Department on October 27, 2008. (Country Life Estates 2 Subdivision File)

30. The applicant was required to complete a Traffic Impact Analysis (TIA) for the portion of McCarthy Loop accessing the proposal. (Exhibit A-12).
31. On August 19, 2008, the David Ohnstad, Road Supervisor for the Ravalli County Road and Bridge Department stated in an email that he would accept the finding of the TIA and would recommend that the current or future owners participate annually in the County's dust abatement program for the portion of McCarthy Loop heading east from Hayfield Lane to Sleeping Child Road. (Exhibit A-13)
32. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
 - *The applicant shall submit a final approved approach permit from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)*
 - *Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal. (Final Plat Requirement 16)*
 - *Road certification(s) shall be submitted with the final plat submittal. (Final Plat Requirement 17)*
 - *A Road Maintenance Agreement shall be signed, notarized, and submitted for the internal road. (Final Plat Requirement 19)*
 - *A notification of the limitation of access shall be included in the notifications document. (Condition 1)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)*
 - *The final plat shall show a no-ingress/egress zone along the subdivisions frontage with McCarthy Loop. (Condition 8)*
 - *A stop sign shall be installed at the intersection of McCarthy Loop and Hayfield Lane prior to final plat approval. (Condition 9)*
 - *The easement for the internal subdivision road shall be labeled as a "public road, utility, and irrigation easement on the final plat. (Condition 10)*
 - *The applicant shall enroll in the Ravalli County dust abatement program for the portion of McCarthy Loop heading east from Hayfield Lane to Sleeping Child Road. The applicant shall submit evidence from the Ravalli County Road and Bridge Department indicating that enrollment has occurred. (Condition 14)*

Ambulance Services

33. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on May 28, 2008 and November 20, 2008 but no comments have been received to date. (Country Life Estates 2 Subdivision File)

34. *To mitigate impacts on emergency services, the applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

35. The applicant is proposing individual wells and a community wastewater treatment facility to serve all lots. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Country Life Estates 2 Subdivision File)
36. *To mitigate impacts of the subdivision relating to water and wastewater, the applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Solid Waste Services

37. Bitterroot Disposal provides service to this site. (Country Life Estates 2 Subdivision File)
38. Notification letters were sent to Bitterroot Disposal requesting comments on May 28, 2008 and November 20, 2008, but no comments have been received to date. (Country Life Estates 2 Subdivision File)

Mail Delivery Services

39. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS. (Exhibit A-14)
40. *To mitigate impacts on local services, the applicant shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Hamilton Post Office's standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval. Alternatively, should the Hamilton Post Office allow for individual mailboxes, evidence shall be provided indicating that a CBU is not required. (Condition 11)*

Utilities

41. The proposed subdivision will be served by Northwestern Energy and Qwest Communications. (Country Life Estates 2 Subdivision File)
42. Notification letters were sent to the utility companies requesting comments on May 28, 2008 and November 20, 2008 (Country Life Estates 2 Subdivision File). In a letter dated November 9, 2006, Qwest Senior Design Engineer Dave Smith stated that they would provide telecommunications services to the proposed development. (Exhibit A-15)
43. *The following requirements will mitigate impacts of the subdivision on local utilities:*
- *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*

- *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision will add six new homes to Ravalli County, as there are currently two residential structures located on the subject property. (Application, 2004 Aerial Photograph and Site Visit on 11/25/08)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana: <http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp>)
3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground Water Quality

4. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-16)
5. *The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Surface Water Features

6. The Republican Ditch traverses the northwestern portion of the property. (Country Life Estates 2 Preliminary Plat)
7. There is an existing 75-foot easement extending from the Republican Ditch onto the subject property. (Country Life Estates 2 Preliminary Plat)
8. *The applicant is required to show all existing easements on the final plat. (Final Plat Requirement 2)*

Vegetation

9. The applicant submitted a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan. (Country Life Estates 2 Subdivision File)

10. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
11. The Montana Natural Heritage Program found that the Palish Sedge and State Champion Tree were plant species that are potentially located within the same section as the subject property. The applicant submitted and was granted a sensitive species waiver for the State Champion Tree. The applicant was required to submit a sensitive species report for the Palish Sedge. The report indicated that during an on-site investigation, there was no indication of the presence of Palish Sedge. (Country Life Estates 2 Subdivision Application)
12. *To mitigate impacts on the natural environment, the following condition and requirement shall be met:*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Historical/Archeological Sites

13. There are no known sites of historical significance on the property. (Country Life Estates 2 Subdivision File)
14. *To ensure that any possible historical sites are preserved, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

In a letter received June 10, 2008, Montana Fish wildlife and Parks (FWP) stated that this property has an elevated probability of human/wildlife conflict and recommended including "living with wildlife" covenants. (Exhibit A-17)

According to the Montana Natural Heritage Program, the Bull Trout, Westslope Cutthroat Trout, and Townsend's Big-Eared Bat were identified as animal species of concern that could exist in the same section as the proposal. The applicant requested and received a waiver from the requirement to submit a sensitive species report for the Townsend's Big-Eared Bat and submitted a sensitive species report for the two fish species. The sensitive species report concluded that the Republic Ditch is not suitable habitat for both identified fish species. (Country Life Estates 2 Subdivision Application)

To mitigate impacts on wildlife and wildlife habitat, the covenants filed with the subdivision shall include a living with wildlife section as recommended by FWP. (Condition 2)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Hayfield Lane. (Country Life Estates 2 Preliminary Plat)
2. *The requirements and conditions listed under Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, Ravalli County E-911, Disaster & Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Country Life Estates 2 Subdivision Application)
4. *The requirements and conditions listed under Fire Department, Public Safety, Emergency Services, and Roads in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicant is proposing individual wells and a community wastewater treatment facility to serve all lots. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Country Life Estates 2 Subdivision File)
6. *To mitigate impacts of the subdivision relating to water and wastewater, the applicant shall submit a DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

7. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
8. The preliminary plat and soils map indicate there are no soil types on the property that are considered severe for construction of roads and/or buildings. (Country Life Estates 2 Subdivision File)
9. The Republican Ditch traverses the northwestern portion of the property.
10. *To mitigate impacts on the public's health and safety, the following conditions shall be met:*
 - *The covenants shall include a statement regarding radon exposure. (Condition 2)*

- *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
- *The applicant shall install safety fencing along the entire length of the Republican Ditch in accordance with Section 5-6-2(b) of the Ravalli County Subdivision Regulations. (Final Plat Requirement 26)*
- *The applicant shall submit a letter from Daly Ditches Irrigation District indicating the preferred location of a safety fence to be constructed along the entire length of the Republican Ditch where it traverses the subject property. (Condition 14)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Grandstaff opened public comment.

Leonard stated they would prefer to go with the Planning Board's recommended 14 conditions rather than the Planning Staff's recommendations of 17 conditions.

Lori Schallenberger stated they are proposing to install an irrigation system to continue use for agricultural purposes. She stated they have paid \$25,000 in the past to bring McCarthy Loop up to county standards. She stated now with pro rata totaling \$35,000, she would request the Road Department utilize the pro-rata funds and pave the road.

Commissioner Grandstaff closed public comment.

Commissioner Rokosch discussed the Planning Boards recommendation to remove Condition 15 (Dust Abatement). He questioned the pro rata and the use of pro rata along with the recommendations of the Road Department for dust abatement. Tristan clarified the dust abatement is from Hayfield Lane to Sleeping Child Road.

Commissioner Grandstaff asked Civil Counsel about the pro rata share for improvements which are from Hayfield Lane to the nearest County road. She stated that the pro-rata calculation doesn't take into account loop roads and that there will be impacts to the road that have not been mitigated for.. She also questioned the public access to the river and people driving from McCarthy Loop to get to the parking area at the river. She asked how much of the road is going to be used by the residents to get to the public access. Tristan stated a traffic impact analysis was submitted which concluded that 98% of the traffic from the subdivision would head east from Hayfield Lane to Sleeping Child Road. He stated Road and Bridge Supervisor David Ohnstad concurred with the findings of the Traffic Impact Analysis. John Horat stated payment of the pro rata fees will go into the grader district, which should be used for the improvement of the road if necessary in the future. Commissioner Grandstaff discussed a letter received from Glenda Kruger. Commissioner Driscoll questioned the previous improvement to the road. John Horat replied at the time Mike Wiles was the Road Supervisor and they widened the road and

laid gravel. He stated in his opinion, the road is much improved. Commissioner Rokosch questioned paying pro rata versus bringing the road to county standards. Tristan replied if it was a private road, they would be required to bring it to county standards. Since it is a County road, the applicant is required to pay a pro-rata share. Civil Counsel Dan Browder stated he would need some time to investigate the road issue. Commissioner Grandstaff stated the elk herd is also a concern that has been not addressed. Lori disagreed. She stated in the 30 years she has lived here she has never seen elk on the property. Leonard added FWP has replied. Commissioner Iman stated there are regulations and rules that need to be followed. It seems to him that this is a fishing expedition. Commissioner Grandstaff stated this is not a fishing expedition. She stated her concern is the road and how the regulations do not address loop roads. **Lori stated they would be willing to do the dust abatement on McCarthy Loop from the intersection with Hayfield Lane east to Sleeping Child Road.** Commissioner Rokosch stated that would be considered as long as it was written in the road maintenance agreement.

Leonard questioned the term “nearest county road”. Commissioner Grandstaff stated she is seeking a legal opinion about how subdivision regulations apply to loop roads. Commissioner Rokosch stated it can be debated however, but it is a matter of public safety. He stated with additional traffic on a problematic road, it only takes one accident for a potential crisis. Commissioner Iman apologized for his earlier comment regarding a fishing expedition. He stated his concern is changing a regulation midstream. The law states “the nearest public access”. He stated when paying \$35,000 for a quarter mile of the road, they should not be required to pay for the dust abatement also. He stated it is unfair to change the rules as you go. Commissioner Grandstaff replied then what would be the point of the review? She stated this is a public safety issue. She stated it is the Board’s job to ensure there are no adverse impacts of this subdivision to public safety. Commissioner Rokosch stated yes there are rules across the board but it is the Board who identifies the impacts and if they can be mitigated. He further explained the regulations and public safety and how the Board needs to address them.

John Horat requested continuing with any issues for the owners to have a chance to respond. Leonard stated if the elk issue is considered, they will have to go back to the Planning Board. He stated Commissioner Grandstaff did not send a letter regarding the elk herd, therefore they would need to go back to the Planning Board as it would qualify as new information. Commissioner Grandstaff disagreed with going back to the Planning Board. Civil Counsel Dan Browder cited regulations, stating the Board of County Commissioners determines if new information is relevant and credible that may have an impact on the findings and what they rely upon to make their decisions. He stated it is up to the Commissioners to determine if the new information needs to go back to the Planning Board. Commissioner Driscoll requested clarification.

Commissioner Grandstaff reviewed the criteria with the Board.

1. Effects on Agriculture: Commissioner Rokosch requested a soils map. He stated his concern is the loss of hay production. He requested mitigation for the loss of agricultural land. **Lori replied they have agreed to install an irrigation system to keep it in**

agricultural production. Commissioner Driscoll asked how much it costs. Lori estimated about \$10,000. Doug stated with two acre lots, owners can have orchards and gardens. Commissioner Rokosch noted to have Staff include soils data in their packets. Commissioner Rokosch stated there is an overall loss for the homes being installed for agriculture. Lori replied they feel they have mitigated the loss with the installation of an irrigation system.

Commissioner Iman and Commissioner Driscoll voted sufficiently mitigated. Commissioner Rokosch and Commissioner Grandstaff voted non-sufficiently mitigated.

2. Effects on Agricultural Water Users: Commissioner Iman stated this property will be irrigated by ditch systems, changing the number of users, you cannot flood irrigate. He stated if the ditch company has signed off on the proposed irrigation plan, then they are in agreement. He discussed what ditch companies require for pumping. Commissioner Iman discussed the lot sizes of two acres and how the applicants were following the law at the time of the applicants. Commissioner Grandstaff stated no one is disputing the configuration. She read a letter submitted by Beth Robbins regarding the effects on water use facilities stating there is a small ditch that Mr. Schallenberger agreed to help with maintenance. She stated there has been no help that was promised. Doug replied he disagrees. The pond supplies water and Lori has been spraying the weeds. Lori stated Daly Ditches stated the upkeep is Beth Robbins' responsibility and the culvert is plugged. Commissioner Driscoll asked if there was an agreement in the previous subdivision approval. Doug replied at the time, they gave the County the easement where the ditch is located. **All voted sufficiently mitigated.**

3. Effects on Local Services: Commissioner Grandstaff stated the Hamilton Fire District requested the road be 20 feet of pavement and one foot shoulders. She stated in the past, it has been 18 feet with two foot shoulders. She stated this puts the developer in a bind. She requested legal opinion if it is a modification to the plans. John Horat stated they have preliminary approval and they can change the section. He stated there are sometimes minor modifications prior to submitting to the engineer. Civil Counsel Karen Mahar stated when the application is deemed sufficient, rules can change with the public health and safety criteria. It is a matter of a mitigation request. Commissioner Rokosch suggested keeping Condition 16. Lori replied it is not the regulations. Karen replied the road standards set out a minimum but the fire trucks and ambulances have different demands. Commissioner Rokosch stated as new information is received regarding concerns of public health and safety, the Board is required to meet those needs to provide adequate safety. Karen added there are other ways to mitigate those needs if it produces a hardship on the developer.

John stated the regulations need to be changed to reflect the road requirements. Commissioner Rokosch stated at this time, it can be made a condition until the regulations can be amended. **Lori and Doug agreed to the 20 feet width with one foot shoulders and \$500 per new lot for Hamilton Fire District.**

Commissioner Rokosch reviewed the configuration for basis of requested mitigation for the School District impacts. Lori stated she volunteered mitigation in the amount of \$500 per lot for the Hamilton School District. Commissioner Grandstaff stated these numbers are not pulled out of the air. These numbers are based on the tax records. Lori stated the school enrollment has decreased. Commissioner Rokosch stated there is a letter received from Superintendent Ernie Jean requesting a possible bus turn out and a shelter. John stated there is a sufficient turn around area existing at McCarthy Loop and Hayfield Lane. Commissioner Rokosch stated at final plat, there is a letter required from the school district indicating if they want a turn out or not. Commissioner Rokosch discussed the bus shelter and requested one big enough for the minimum of four students. **(Condition 13) Doug agreed to build a bus shelter. Commissioner Rokosch requested to modify Condition 13 for a bus shelter big enough to handle the projected number of students.**

Commissioner Rokosch stated there is an offer of mitigation of \$250 per lot for the impacts to public safety. He requested additional mitigation due to the impacts on public safety (Sheriff's Office, 9-1-1 and OEM). **Doug agreed to \$500 per new lot for Public Safety.**

Commissioner Rokosch requested mitigation for the impacts on general county services. He suggested \$200 per unit. Commissioner Grandstaff explained what general county services are such as the impacts on Clerk & Recorder services. John asked what were the results of the Dennis Stranger study? Commissioner Driscoll replied it was \$233 per unit. Commissioner Rokosch gave explanation of the Fiscal Impact Study. John requested a copy of the study from Staff. **Doug offered \$200 per new lot only for the impact on general county services.**

Commissioner Iman voted sufficiently mitigated. Commissioner Grandstaff, Commissioner Rokosch and Commissioner Driscoll voted non-sufficiently mitigated.

Further discussion followed regarding mitigation and the variances in fee requests between the Commissioners and the Planning Board. Commissioner Grandstaff stated there will be a letter issued to the land consultants of what can be expected of the subdivision review process with the Board of County Commissioners. Karen stated Montana law requires the Commissioners to mitigate impacts. It is supposed to be a negotiation with room for options. The Commissioners are responsible for adequate mitigation for the impacts. Lori stated they have been paying \$2,700 per year on the five acre piece for taxes and feels she has paid more than their share for school mitigation. Tristan stated that Planning Staff Reports used to state that applicants shall negotiate a fee, implying that mitigation needed to be monetary in nature. He continued that it has since been changed to state that the applicant shall negotiate mitigation found acceptable by the Commissioners. Commissioner Iman noted there has been no communication to his knowledge with the Planning Board for the recommended mitigation such as the figures on which to base the school mitigation. Commissioner Rokosch replied it is included in the subdivision packet. He stated mitigation for general services has not been conveyed to the Planning Board. Commissioner Grandstaff stated it will be conveyed to

the Planning Board. John added Staff has discussed the umbrella of mitigation to the developers. Tristan stated Staff did earlier this year have the conversation with Planning Board of mitigation. It was determined at that time Planning Board would leave the discussion of mitigation to the Board of County Commissioners public hearing. Commissioner Rokosch stated the Planning Board does provide a recommendation to the Board of County Commissioners. It does not necessarily mean the Board of Commissioners automatically agree with that recommendation. He stated at the same time, they need to keep up with that process and have review with the Planning Board.

4. Effects on Natural Environment: Commissioner Rokosch stated with air quality and the complaints with the North Sunset Bench area, dust control needs to be part of this criterion. He gave some background for basis of this request for the impacts of fugitive dust. John asked if DEQ looks at the length of the county roads. Commissioner Rokosch replied he cannot answer that question and it would be a question for Environmental Health.

All voted sufficiently mitigated.

5. Effects on Wildlife and Wildlife Habitat: Commissioner Grandstaff discussed the elk herd. Tristan replied FWP comments did not include anything regarding the elk herd. Commissioner Rokosch stated they could submit a letter requesting more detail from the FWP. Doug stated in his opinion, the houses are not going to impact the elk herd which tends to stay in the river bottom. Commissioner Rokosch discussed the cumulative impact of increased traffic and population to the elk herd. He stated it is still a question of how to mitigate the impact to elk. **Commissioner Grandstaff stated she will contact FWP for clarification of the elk herd.**

6. Effects on Public Health and Safety: Commissioner Rokosch requested a resolution on the questions of the road from legal counsel prior to the vote. Tristan read the condition for the trail and stated it consists of a 5 foot wide trail from the cul-de-sac to McCarthy Loop but changed for ADA compliance. Tristan stated it is a maintenance issue with the ADA compliant gravel.

Commissioner Iman stated it has been presented to the Planning Board multiple times. He stated it has always been a question of what the path is to be used for such as a horse path, walking path, etc. for if it should be paved or gravel. Commissioner Driscoll discussed the path and the maintenance with the separation of the road. John replied his clients will think about the path. He stated it would be a consideration of the use for the walk way. Commissioner Grandstaff stated it is a matter of connectivity. John asked if this is a potential mitigation item. John asked if rather than build the path, the applicants contribute to the CTEP project at Fairgrounds Road which would be used by high school students walking to the school. Commissioner Grandstaff stated it is open for discussion and consideration. Commissioner Rokosch discussed looking at providing public safety to the fullest extent. Lori stated her concerns with putting in a bike path that connects to a major road when the county does not maintain that road. She stated to her it seems the

County is passing the buck to private landowners for the bike paths when there isn't anything for them to connect to on the major roads.

Commissioner Rokosch made a motion to continue this public hearing until Monday January 26th at 9 a.m. Commissioner Driscoll seconded the motion and all voted 'aye'.